KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LAWRENCE MERCER
Deputy Attorney General
State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5539
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **PAUL LOFTUS, M.D.** 100 S. Newport Drive Napa, CA 94559 Physician's and Surgeon's Certificate No. C33393 Respondent.	Case No. 12-2013-233104 OAH No. 2015020418 **DEFAULT DECISION AND ORDER**

FINDINGS OF FACT

1. On March 19, 2015, Complainant Kimberly Kirchmeyer, solely in her official capacity as Executive Director of the Medical Board of California, filed Accusation No. 12-2013-233104 against Paul Loftus, M.D. (Respondent)

2. On June 14, 1971, the Medical Board of California issued Physician's and Surgeon's Certificate No. C33393 to Paul Loftus, M.D. On March 2, 2015, an Interim Suspension Order was issued against said certificate and it is currently suspended. Said certificate expired on March 31, 2015, and is currently delinquent. Unless renewed, it will be cancelled on March 31, 2020.

//

3. On June 20, 2013, the Board received a consumer complaint regarding Respondent, which complaint stated that Respondent was mentally impaired following a cerebrovascular accident.

4. On August 27, 2014, an investigator for the Board requested that Respondent submit to a neurologic evaluation.

5. On November 4, 2014, a neurologic evaluation of Respondent was performed by a neurocritical care and stroke expert. The expert conducted a full neurologic examination and reviewed Respondent's medical records, after which he concluded that Respondent had deficits in regard to new memory. The expert opined that Respondent's continued medical practice posed a risk of harm to patients by reason of his memory deficits. The Declaration of David Palestrant, M.D., and attachments thereto, are contained in the Exhibit Package[1] and marked as **Exhibit 1.**

6. On March 2, 2015, Complainant petitioned for an Interim Suspension Order, which was granted and became effective as of that date.

7. On March 19, 2015, Complainant filed an Accusation in which it was charged that Respondent was unable to practice medicine safely due to a mental illness or physical illness affecting competency. The Accusation was served upon Respondent's address of record, and included a Statement to Respondent that he was required to complete and return his Notice of Defense if he wanted to demand a hearing on the charges. Respondent did not claim the certified mail copy. A copy of the Accusation is contained in the supporting exhibits as **Exhibit 2**.

8. On April 7, 2015, counsel for Complainant served a Courtesy Notice of Default upon Respondent at his address of record. The Notice of Default provided Respondent with a copy of the Accusation, the Statement to Respondent and a Notice of Defense, and advised him that he was in default. A copy of the Notice of Default and accompanying documents is contained in the exhibit package and marked as **Exhibit 3.**

//

---

[1] The evidence in support of this Default Decision and Order is submitted herewith as the "Exhibit Package."

//

9. The notice further advised Respondent that he could return the Notice of Defense and/or contact Complainant's counsel to obtain relief from default. On April 10, 2015, the certified mail copy was delivered to Respondent. A copy of the United States Postal Service tracking report, together with Respondent's signed return receipt, are attached and collectively marked as **Exhibit 4.**

10. Despite actual notice that he is in default in the disciplinary action against him, Respondent has not taken any action to seek relief from default.

STATUTORY AUTHORITY

11. Section 820 of the Code provides as follows:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

12. Section 822 of the Code provides that if the Board determines that a licensee's ability to practice his profession safely is impaired because the licensee is mentally ill, or physically ill affecting competency, the licensing agency may take action by revoking or suspending the license, placing the licensee on probation, or taking such other action as the licensing agency in its discretion deems proper.

13. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

//

14. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation.

15. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

16. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the exhibits, including the Declaration of David Palestrant, M.D., finds that the allegations in the Accusation are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact and statutory authorities, Respondent Paul Loftus, M.D., has subjected his Physician's and Surgeon's Certificate No. C33393, to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate No. C33393 based upon the following violations alleged in the Accusation:

"Respondent's Physician and Surgeon's Certificate No. C33393 is subject to disciplinary action pursuant to section 2234 and/or section 822 in that Respondent suffers from a mental illness or physical illness affecting competency, which impairs his ability to practice medicine safely."

//

//

//

//

//

//

//

ORDER

IT IS ORDERED that Physician's and Surgeon's Certificate No. C33393, heretofore issued to Respondent Paul Loftus, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on June 4, 2015.

It is so ORDERED May 5, 2015

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LAWRENCE MERCER
Deputy Attorney General
State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5539
Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 19 20 15
BY D. Richards ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **PAUL LOFTUS, M.D.** 100 S. Newport Drive Napa, CA 94559 Physician's and Surgeon's Certificate No. C33393 Respondent.	Case No. 12-2013-233104 OAH No. 2015020418 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about June 14, 1971, the Medical Board of California issued Physician's and Surgeon's Certificate Number C33393 to Paul Loftus, M.D. (Respondent). On March 2, 2015, an Interim Suspension Order was issued against the certificate and it is currently suspended. Unless renewed, the certificate will expire on March 31, 2015.

//

//

JURISDICTION

3. This Accusation is brought before the Medical Board of California, under the authority of the following laws. All references are to the Business and Professions Code unless otherwise specified.

4. Section 2227 of the Business and Professions Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

5. Section 2234 of the Code provides in relevant part that the Board "shall take action against any licensee who is charged with unprofessional conduct."

6. Section 820 of the Code provides as follows:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

7. Section 822 of the Code provides that if the Board determines that a licensee's ability to practice his profession safely is impaired because the licensee is mentally ill, or physically ill affecting competency, the licensing agency may take action by revoking or suspending the license, placing the licensee on probation, or taking such other action as the licensing agency in its discretion deems proper.

FACTS

8. On June 20, 2013, the Board received a consumer complaint regarding Respondent, which complaint stated that Respondent was mentally impaired following a cerebrovascular accident ("CVA") one year earlier.

//

9. The Board obtained the relevant medical records and interviewed Respondent, after which Respondent voluntarily underwent a neurological evaluation.

10. On November 4, 2014, Respondent was examined by David Palestrant, M.D., a neurocritical care and stroke expert. Dr. Palestrant has been an attending neurologist and has held the title of Director for Neurocritical Care and Stroke Care at Eden Hospital and at Cedars-Sinai Medical Center. He currently practices at Cedars-Sinai, Marin General and Kentfield Rehab and Specialty Hospital. He is board-certified in critical care medicine, neurology, vascular neurology and neurocritical care. Dr. Palestrant is a member of the American Academy of Neurology, Neurocritical Care Society and the Society of Critical Care Medicine.

11. Dr. Palestrant reviewed the medical records released by Respondent. He also took a complete history of Respondent's stroke and stroke aphasia and administered testing to evaluate Respondent's mental status, including the Montreal Cognitive Assessment and Mental Status Examination for Dementia.

12. In his report, dated December 16, 2014, Dr. Palestrant advised that Respondent demonstrated deficits in regards to new memory, with testing in these areas being abnormal and noticeably different to his high scores in other mental status faculties. Dr. Palestrant further advised that, even though Dr. Loftus' overall scores fell within the normal range for his age, these scores would be expected to be higher given his life-time intellectual attainment.

13. On March 2, 2015, Complainant petitioned for and was granted an Interim Suspension Order, precluding Respondent from practicing medicine until after a hearing and decision on an Accusation filed pursuant to Business and Professions Code section 822.

//

//

//

CAUSE FOR DISCIPLINARY ACTION

(Mental/Physical Impairment)

14. Respondent's Physician and Surgeon's Certificate No. C33393 is subject to disciplinary action pursuant to section 2234 and/or section 822 in that Respondent suffers from a mental illness or physical illness affecting competency, which impairs his ability to practice medicine safely.

PRAYER

WHEREFORE, complainant prays that a hearing be held and that the Board issue an order:

1. Revoking or suspending physician and surgeon certificate number C33393, issued to Paul Loftus, M.D.;

2. Prohibiting Paul Loftus, M.D., from supervising Physician Assistants;

3. Ordering Paul Loftus, M.D., if placed on probation, to pay the costs of probation monitoring.

4. Taking such other and further action as may be deemed proper and appropriate.

DATED: March 19, 2015

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SF2015400703
41243674.doc